IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE M.RAMACHANDRAN

TUESDAY, THE 23RD JANUARY 2007 / 3RD MAGHA 1928

W.P.(C).No.1397 of 2007(S)

PETITIONER:-

ENVIRONMENTAL PROTECTION FORUM,
REPRESENTED BY ITS SECRETARY Y.RAMAKRISHNA IYER,
RESIDING AT RAMANKULATHU MATOM, VASANAD P.O.,
ALAPPUZHA DISTRICT.

BY ADV. SMT.DAISY THAMPI.

RESPONDENTS:-

1. THE DISTRICT COLLECTOR, ALAPPUZHA.

2. THANNEERMUKKOM GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY.

R1 BY GOVERNMENT PLEADER SRI.T.B.HOOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/01/2007, THE COURT ON 23/01/2007 DELIVERED THE FOLLOWING:-

V.K.Bali,C.J. & M.Ramachandran,J.

W.P.(C).No.1397 of 2007-S

Dated, this the 23rd day of January, 2007

JUDGMENT

V.K.Bali,C.J.

Environmental Protection Forum, which is said to be a voluntary organisation formed for discharging the fundamental duties of citizens of India as envisaged under Article 51-A of India, through the present petition under Article 226 of the Constitution of India by way of public interest litigation is seeking a writ in the nature of mandamus directing the Thanneermukkom Grama Panchayat, the 2nd respondent, not to cut the Banyan tree standing on 41.17 ares of property comprised in Survey No.148/18 of Kokkothamangalam Village near the Velliyakulam Public Pond, on the side of Kottayam - Cherthala Road for construction of any building. It is the case of the petitioner that the 2nd respondent on 26.11.2006 has decided to cut the tree standing on the property referred to above for the construction of a Shopping complex. Banyan is the national tree of India and the

tree is ecologically important since it helps to protect the Ozone layer in the atmosphere. On 1.12.2006, the petitioner as well as several other residents of the Panchayat submitted a representation before the 2nd respondent requesting to construct the proposed buildings without destroying the Banyan tree. However, no action has been taken on the representation so far. The proposed construction, it is the case of the petitioner, can be carried out without felling the tree, if slight modifications are made in the plan.

2. We have heard the learned counsel for the petitioner. We do not find pleadings made in the petition nor sufficient grounds urged during the course of argument that there is any embargo in the cutting of the single tree after building plans have been approved by the concerned authorities. Confronted with the position aforesaid, the counsel would then contend that the construction can be made without cutting the tree. In the facts and circumstances of the case, we only observe that if the construction may be possible without cutting the tree, every effort should be made to save it. However, if that is not possible, there cannot be any embargo in cutting the tree.

With the observation as made above, the writ petition is disposed of.

V.K.Bali
Chief Justice

M.Ramachandran
Judge

vku/-